

opción

Revista de Antropología, Ciencias de la Comunicación y de la Información, Filosofía,
Linguística y Semiótica, Problemas del Desarrollo, la Ciencia y la Tecnología

Año 35, 2019, Especial N° 20

Revista de Ciencias Humanas y Sociales
ISSN 1012-1537/ ISSNe: 2477-9385
Depósito Legal pp 198402ZU45



Universidad del Zulia
Facultad Experimental de Ciencias
Departamento de Ciencias Humanas
Maracaibo - Venezuela

Revisiting the Concept of Discrimination in Russian and Global Practice

Vladimir Y. Golubovsky¹

¹Russian State Social University, Moscow, Russia
v.y.golubovsky@bk.ru

Elena V. Kunts²

²Ural branch of Russian State University of Justice, Chelyabinsk, Russia
Elena.V.Kunts@yandex.ru

Abstract

In this article, the legal nature of the concept and trends of discrimination both in the world and in domestic practice are considered via qualitative comparative research method. As a result, these inequalities are objectively emerging in politics, economics, becoming a reflection of global trends in the development of social relations, and they also generate social tensions in society, conflicts, and a reduction in various incentives for people at lower levels of the social hierarchy. In conclusion, the context of discrimination freedom and equality should be understood solely as legal categories, rather than social, economic or psychological benefits.

Keywords: Social Phenomenon; Discrimination; Russian Experience.

Revisando el concepto de discriminación en la práctica rusa y global

Resumen

En este artículo, la naturaleza legal del concepto y las tendencias de discriminación tanto en el mundo como en la práctica doméstica se consideran a través del método de investigación comparativa cualitativa. Como resultado, estas desigualdades están surgiendo objetivamente en la política, la economía, convirtiéndose en un reflejo de las tendencias globales en el desarrollo de las relaciones sociales, y también generan tensiones sociales en la sociedad, conflictos y una reducción en varios incentivos para personas en los niveles más bajos de la jerarquía social. En conclusión, el contexto de la discriminación libertad e igualdad debe entenderse únicamente como categorías legales, en lugar de beneficios sociales, económicos o psicológicos.

Palabras clave: Fenómeno social; Discriminación; Experiencia rusa.

1. INTRODUCTION

At present Russian legislation lacks the normative definition of discrimination. However, the current criminal law provides liability for violating the equality of rights and freedoms of a man and citizen. According to official statistics, the number of crimes registered in Russia under Art. 136 of the Criminal Code of the Russian Federation, is measured literally by single acts. Over the past three years, not a single fact of discrimination was recorded as a crime, but at the same

time, this does not mean that discrimination as a criminal law offense does not exist for the Russian Federation. This situation is complicated by the absence of a legislative definition of discrimination. Being a latent phenomenon, discrimination manifests itself in various spheres of social activity, from political and economic aspects of life to everyday aspects, which include all the diversity of the spheres themselves, for example, education, employment, and healthcare services.

The formation of discriminatory principles in many areas of public relations at the international level can be viewed not only as a consequence of the general laws of social development, but also as a result of their determination by factors inherent in reality. Moreover, the phenomenology of discrimination cannot be explained only by the imperfection of the legislation of any state or by weak acceleration of ethical norms prohibiting its use. It is obvious that the processes taking place in Russian society are largely predetermined by a whole set of global prerequisites. The wide and dynamic development of Russia's legal activities in various aspects of foreign and domestic policy, social practice put a whole range of theoretical and practical issues on the agenda, which can only be solved in the light of a modern and adequate anti-discrimination strategy at the international level.

The level and nature of the theoretical understanding of discrimination as an extremely pronounced latent offense lags behind the existing needs of legal practice and the processes of legal matter

updating. At the same time, the simplicity in understanding of the essence of discrimination, the promptness in developing proposals for elimination thereof, as well as the characteristic counteraction to such a phenomenon from the radicalism standpoint often lead to a completely opposite result, namely, to the intensification of discrimination and highlighting each revealed fact as an extremely dangerous manifestation.

That is why the research questions related to the determination of discriminatory encroachments seem to be relevant, which enabled to present an objective picture of this phenomenon, tracking the path of discrimination development in Russia and abroad depending on the social, economic, political, legal circumstances in which discrimination itself as a socio-criminological phenomenon takes place to a certain scale. The research aims to set and solve such tasks as the studying the substantive aspects; discrimination as a social and criminological phenomenon; the analysis of the concept of discrimination from the standpoint of its nature and international practice.

2. LITERATURE REVIEW

Historical aspects of discrimination, its features associated with certain stages of state development in the international practice were covered in the PhD dissertation of Krylov (2013) *Genesis and*

Evolution of Israeli Settlement Policy in the Occupied Arab Territories. The issue of the USA discriminatory policies toward representatives of European countries was studied by (Lekarenko, 2012). Suponitskaya (1996) analyzed in detail the discriminatory processes in the southern United States during the period 1840-1860. The problems outlined above have received the continuation in the dissertation studies by Ataev (2012), Sementsov (2013), Akhmetshin (2017), and the works by Tondera (2005) are devoted to the political aspects of discrimination. Our study will give an objective assessment of discrimination with regard to international studies previously conducted on this issue.

3. METHODOLOGY

Due to the objective lack of materials of judicial practice in discrimination cases, it was not possible to analyze these materials. This led to a comparison and identification of direct and indirect social tendencies related to discriminatory encroachments in practice, both across the globe and in modern Russia. The methodology of scientific research is based on the fundamental principles of dialectics. In solving problems in the framework of the dialectical method of scientific knowledge, the following general scientific methods of research were used: induction and deduction, analysis and synthesis, classification, and the system approach method. In addition, particular scientific methods were used to study the object of research.

Therefore, the statistical method was used in the study of general trends in the registration of discrimination facts; the comparative legal method was used when comparing legal norms regulating the responsibility for discrimination under the criminal legislation of foreign countries and Russia among themselves; the historical method was employed in studying the development of discriminatory processes in Russia and abroad; the documentary method was put to use when studying documents of state authorities, officials, media materials, including Internet sources that are directly related to the subject of the study and the questioning in the survey of various categories of respondents (Kuntz & Golubovskiy, 2015; Habibzadeh, 2016).

4. RESULTS

Discrimination is a socio-criminological legal phenomenon, which is expressed in an open or veiled criminal violation of the legitimate rights and interests of an individual by his or her demographic and social designation, and which is of primary personalized legal value to him or her. The act of the perpetrator, in this regard, is aimed at humiliating, belittling, and insulting the human dignity of the victim's personality which naturally has negative social consequences for the latter. A criminal act, provided for by art. 136 of the Criminal Code of the Russian Federation, is a latent encroachment.

This is confirmed by various sources, from official statistics, according to which the facts of discrimination are registered in Russia, to the data received from various categories of respondents.

Discrimination comprises a complex of objective factors that have gained increasing significance over the past decades: stratification inequality of members of society, the division of society according to gender, dynamic processes related to the economic globalization of society, urbanization, religious intolerance, migratory flows of different nationalities, and the patriarchal traditions of Russian society. It seems that discrimination should be understood as the violation of the rights, freedoms, and legitimate interests of a person based on his or her gender, race, nationality, language, origin, property and official status, place of residence, attitude to religion, beliefs, membership of public associations or social groups, and other circumstances associated with his or her official position.

5. DISCUSSION

The new millennium is characterized by a variety of social disasters, in which discrimination of citizens takes not the last place. Prior to considering the issue of discrimination in domestic and international legal literature, it would be justified to define the very concept of discrimination. Russian scholars rightly point out that in the last decade it has become traditional in the humanities when

explaining the essence of any social phenomenon or process to refer to its etymology and definition. Fully sharing this position, it should be indicated that this allows gaining insight not only into the content but also into nature, the origin of the problem itself. The term discrimination originates from the Latin *discriminatio*, which means infringement.

This term first appeared in English in the second half of the XVII century and was firmly entrenched in communication between the representatives of the North American continent due to the appearance of a new state – the United States of America on the political map of the world in the 18th century, where for many decades the society was differentiated into two categories – the whites and the blacks. The former survived the assimilation processes caused by their own relocation from Europe in the search for a better life, treasures attracting with their fabulousness and, of course, the flight of semi-criminal individuals from European justice to another continent. The latter was, as a rule, indigenous people, the Mexicans migrating to the United States to earn some money, as well as the Negroes, who were brought into the country as a result of the slave trade.

It is important to note that in modern America, it is no longer customary to divide the population according to skin color so fundamentally and categorically. At the same time, the representatives of the Negroid race are no longer accepted to be called the Negroes. They are given a new category of the African Americans. Indeed, the

concept of the Negro is very arbitrary in the United States and it is defined differently in different states. In some states, anyone who has at least 1/8, and in some states even 1/32 or 1/64 of black blood is considered to be the black. Meanwhile, the largest American Anthropologist Boas (1997) came to the conclusion that as a result of the physical mixture for many generations, contemporary American Negroes in their anthropological peculiarities in many respects resemble white Americans.

According to the calculations of another American anthropologist, M. Herskovits, and the most prominent Negro Scholar W. Dubois, as early as in the 1930s, 3/4 of the people officially considered to be the Negroes were ordinary mulattoes (Bogina et al., 1975). In general, the African-American in the modern sense is the social status of an individual with all the social, legal, economic, social and psychological consequences arising from this, often associated with the infringement of their rights and legitimate interests on behalf of the white-skinned groups. And at the same time, African Americans still became the most urbanized and most popular of the largest ethno-racial groups that make up the American nation. According to the data of 2018, their share in the population mass is about 52%.

It is important to note that, according to experts of the Independent Commission on International Humanitarian Affairs, established outside the United Nations in 1983, which in the late

1980s conducted a comprehensive international study, the proportion of African Americans in the structure of the American nation will have increased to 62% by 2025. It will depend on the urbanization component, the immigration activity of people from the nearby countries of Central and South America, as well as the ongoing domestic policy of the State, aimed “at creating conditions for the political attractiveness of the United States in the world” (Bzhezinsky, 1999: 20).

The English-Russian legal dictionary indicates that the English word discrimination has two meanings, firstly, the ability to see the difference between two things or people and secondly, a different approach, the treatment of a person or particular group of people differently. In the New Dictionary of foreign words, discrimination is defined as restricting or depriving a certain category of citizens of the rights on the grounds of gender, religious or political beliefs, etc. Dictionary of Russian language by Ozhegov (1984) does not define discrimination as a noun, but provides a definition of the verb to discriminate as to restrict on rights, deprive of equal rights. Wikipedia defines discrimination as the negative treatment, prejudiced outlook, violence, injustice and deprivation of certain rights of people because of their belonging to a particular social group.

Specialists in individual branches of knowledge also define the phenomenon under study by associating it with the specifics of the subject branches of knowledge themselves. Thus, economists talk

about labor discrimination, price discrimination in market relations, tender discrimination. Representatives of the sociological science use such terms as population employment discrimination, gender discrimination, and occupational discrimination. The study of the historical aspects of discrimination makes it possible to judge about the evolution of discrimination in different periods and in different countries in various forms of state-power relations. Some studies in psychology are devoted to inter-ethnic discrimination, discrimination of opportunities, group discrimination in the context of overcoming difficulties, and family discrimination.

The list of discriminatory aspects is really broad. At the same time, the majority of citizens, scholars, and representatives of law enforcement agencies agree on the view that discrimination is a legal phenomenon. It is no coincidence that the Criminal Code of the Russian Federation provides liability for discrimination in Art. 136, determining that this is a violation of the rights, freedoms and legitimate interests of man and citizen, depending on their gender, race, nationality, language, origin, property and official status, place of residence, attitude to religion, beliefs, affiliation to public associations or any social groups, committed by a person using his official position. These definitions allow for conclusion that the studied category is legal in nature, linking the individual with the legal status, freedoms and interests established by law, and the inability to exercise their powers determined by law due to a set of circumstances of a personal nature.

The social, economic and psychological aspects of discrimination appear to be secondary. Freedom and equality in the context of discrimination should be understood solely as legal categories, rather than social, economic or psychological benefits. Thus, discrimination is a socio-criminological legal phenomenon, which is expressed in an open or veiled criminal violation of the legal rights and interests of an individual on demographic and social grounds that have an important personified legal significance, with the aim of humiliating, belittling, insulting the individual human dignity and entailing negative social consequences for the latter (Indriastuti, 2019; Lobão & Pereira, 2016).

When answering the question what, in your opinion, is discrimination in modern times? Which directly pertained to the conceptual apparatus, 73.7% of the respondents indicated that it represents racism, oppression of small nations, and infringement of the rights of women. Moreover, 50% of the polled citizens highlighted gender as the source of modern-day discrimination. Thus, it can be concluded that citizens have only one-sided understanding of the studied criminological phenomenon. In the opinion of both staff and experts, discrimination is a more complex phenomenon, which includes legal, social, and psychological components.

However, these study participants, as a rule, provided several answers at one time. Most frequently specified answers included:

infringement of women's rights, inequality in labor relations, inequality on the grounds of nationality, and inequality in property status from the available options. The experts were also asked: Under discrimination, the criminal law provides ... Is this definition of discrimination perfect, in your opinion? According to 40.4% of this group of respondents, the definition of discrimination in the law (that is, the norms provided by the Art. 136 of the Criminal Code of the Russian Federation) requires some modifications. When interpreting this finding, it is worth noting that 73% (38 persons) of the respondents were lawyers, as their expert opinion was needed given that discrimination is a legal phenomenon.

One of the aims of the survey conducted in the course of the study was to ascertain the level of relevance of discrimination. Thus, all respondents were asked: How relevant, in your opinion, is the problem of discrimination in everyday life? It is noteworthy that 39.8% of the polled citizens consider the problem as a whole topical, while 30.5% consider it generally irrelevant. However, as 29.7% of the respondents in this group do not know anything about the relevance of discrimination, this suggests that citizens do not attach much importance to the phenomenon under consideration. Moreover, findings yielded by studies in this field indicate that citizens tend to give priority to economic well-being, personal and family safety, personal realization, and children's education, and rarely ponder on the discriminatory principles in their lives (Yang et al., 2019; Soo et al., 2019; Amiri Bourkhani & Yousefzadeh, 2016).

A somewhat different picture emerged from the responses provided by polled law enforcement officers, 28.9% of whom stated that the problem of discrimination is relevant, while 53.9% felt that it was irrelevant. As expected, the polled experts adhere to a completely different position, as 94.2% of 52 expert respondents stated that discrimination is a very relevant phenomenon. Moreover, while subdividing the survey responses into the very relevant and rather relevant than irrelevant, most of the experts concurred that discrimination is very relevant. Further, in the course of the survey of the same categories of respondents, it was possible to identify the frequency of discrimination in modern society.

Thus, all respondents were asked: How often, in your opinion, are there situations of discrimination in everyday life? When interpreting the responses provided by polled citizens, it is worth noting that only 38.9% of this group found the phenomenon relevant, yet 67.4% stated that they encountered discrimination in everyday life. This fact may indirectly indicate that a significant proportion of Russian citizens is regularly faced with unlawful violation of powers and freedoms, but does not attach much importance to this discriminatory practice.

On the other hand, 39.9% of the questioned law enforcement officers indicated that they often face discrimination in everyday life, while 51.5% stated that such incidents are very rare. Therefore,

perhaps, some legal attitude was formed in their minds. It is particularly noteworthy that 80.8% of the polled experts were of view that violation of rights and freedoms occurs often and very often in everyday life. If we compare these answers to the responses to the question of relevance of discrimination, their concern can be deemed appropriate and justified.

6. CONCLUSION

The analyzed social and criminological aspects of the concept of discrimination in domestic and international practice make it possible to formulate the following conclusions. Discrimination is a broad concept used in many subject branches of knowledge. At the same time, its legal side, linking an individual with his or her legal status, freedoms and interests established by law and the inability to exercise his or her powers, determined by law, and due to a number of personal circumstances is the dominant aspect in understanding the essence of discrimination as a phenomenon. The social, economic and psychological aspects of discrimination are revealed as secondary ones. In the context of discrimination freedom and equality should be understood solely as legal categories, rather than social, economic or psychological benefits. The problem of discrimination is perceived differently by different categories of persons.

Citizens do not attach much importance to this phenomenon in society, since, in their opinion, there are more significant values. Law enforcement officers generally minimize the relevance of discrimination, while experts – scholars in various fields of knowledge (lawyers, sociologists, psychologists, economists) – consider this phenomenon to be highly relevant for Russian society. According to official statistics, the facts of discrimination as crimes are registered rarely if ever, but even in such conditions, discrimination is an extremely latent offense, which is extremely difficult to identify and which is not easy to take into account within the framework of official statistics. The latency of discrimination is explained by the deliberate actions of law enforcement officials on veiling, concealing the criminal nature of this offense.

REFERENCES

- AKHMETSHIN, R. 2017. **Radical Trends in the Movement of African Americans for Civil Rights and Freedoms in the Second Half of the XX Century: Thesis Abstract.** ... Candy. Hist. Sciences. Kazan. P. 22. Japan.
- Amiri Bourkhani, H., & Yousefzadeh, M. 2016. **Investigate the relationship between Maskan bank service quality and customer satisfaction by using of the SERVQUAL model in the Maskan Bank of Mazandaran province.** UCT Journal of Management and Accounting Studies, 4(2), 29-35.
- ATAEV, M. 2012. **Integration Processes on the North American Continent in the Context of Globalization: the End of the 1980s –**

the Beginning of the XXI Century: Thesis Abstract. Cand. Hist. Sciences. M. Japan.

BOAS, F. 1997. **Methods of Ethnology.** In **Anthology of culture studies.** Translated by. Yu.S. Terentyev. SPb: University book. Vol. 1, pp. 519-527. Russia.

BOGINA, S., KOZLOV, V., NITOBURG, E., & FURSOVA, L. 1975. **National processes and national relations in Western Europe and North America.** Soviet Ethnography. Vol. 5, pp. 3-16. Russia. https://www.booksite.ru/etnogr/1975/1975_5.pdf.

BZHEZINSKY, Z. 1999. **Great Chessboard. Domination of America and Its Geostrategic Imperatives.** Moscow: International Relations. P. 36. Russia.

Habibzadeh, M. 2016. **Legal Strategies of money Laundering Prevention Emphasizing Financial –Economic policies.** UCT Journal of Social Sciences and Humanities Research, 4(2), 26-30

INDRIASTUTI, H. 2019. **Entrepreneurial inattentiveness, relational capabilities and value co-creation to enhance marketing performance.** Giap journals. Vol 7. N° 3. India.

KRYLOV, A.2013. **Genesis and evolution of Israeli settlement policy in the occupied Arab territories: 1967 - 2007: Thesis Abstract.** ... Dr. Hist. Sciences. M. Japan.

KUNTZ, Y., & GOLUBOVSKIY, V. 2015. **The Legal Nature of Ethnic and Religious Conflicts.** Indian Journal of Science and Technology. Vol. 8, N° 10: 1-7. India.

LEKARENKO, O. 2012. **The USA Policy on European Integration: 1955 - 1963: Thesis Abstract.** ... Dr. Hist. sciences. Tomsk. Japan.

Lobão, J., & Pereira, C. 2016. **Looking for Psychological Barriers in nine European Stock Market Indices.** Dutch Journal of Finance and Management, 1(1), 39.

OZHEGOV, S. 1984. **Dictionary of the Russian language. 57,000 words** / Ed. Dr. filol. Sciences, prof. N.Y. Swedova. M.: Rus. lang. p. 143. Japan.

SEMENTSOV, N. 2013. **African American Civil Rights in the Policy of the United States Federal Authority in 1945-1953: Thesis Abstract.** ... Cand. Hist. Sciences. Volgograd. P. 17. Japan.

SOO, M., SHELBY, R., & JOHNSON, K. 2019. **Optimizing the patient experience during breast biopsy.** Journal of Breast Imaging. wbz001, <https://doi.org/10.1093/jbi/wbz001>. UK.

SUPONITSKAYA, I. 1996. **Slave Owing South in the United States, 1840-1860.** Synopsis of PhD Thesis in History. Moscow. Russia.

TONDERA, M. 2005. **Polyethnicity and Multiculturalism in the Structure of the American Nation: History and Modernity: Thesis Abstract.** ... Cand. Polit. nauk. M. P. 19. Japan.

YANG, Y., PAN, T., & ZHANG, J. 2019. **Global optimization of Norris derivative filtering with application for near-infrared analysis of serum urea nitrogen.** Scientific Research Publishing. Vol 10. N° 5. China.



**UNIVERSIDAD
DEL ZULIA**

opción

Revista de Ciencias Humanas y Sociales

Año 35, N° 20, (2019)

Esta revista fue editada en formato digital por el personal de la Oficina de Publicaciones Científicas de la Facultad Experimental de Ciencias, Universidad del Zulia.

Maracaibo - Venezuela

www.luz.edu.ve

www.serbi.luz.edu.ve

produccioncientifica.luz.edu.ve